IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11833 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RABARI MAIYA DAYA KODIYATAR

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MR HH PATEL for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 27/02/2001

ORAL JUDGEMENT

#. Challenge has been made by the petitioner to the order dated 19-9-2000 of the District Magistrate, Porbandar under which he was detained as a bootlegger.

#. One of the contentions raised is that the copies of

statements of witnesses recorded under section 161 of Cr.P.C. in the criminal complaint have not been supplied to the petitioner by the detaining authority. It is further submitted that in the representation dated 14-11-2000 filed by the petitioner to the Hon'ble Chief Minister of the State against the detention order, this grievance has also been made.

#. Reply to the special civil application has not been filed by any of the respondents though this matter was admitted on 20-11-2000 and as such the factual averments made by the petitioner in the special civil application stand uncontroverted. It is a clear case where the petitioner has been denied of his right of making effective representation against the detention order as conferred upon him under Article 22(5) of the Constitution of India.

#. In the result, this petition succeeds and the same is allowed. The order of detention of the petitioner dated 19-9-2000 is quashed and set aside. The petitioner Rabari Maiya Daya Kodiyatoar, the detenu, at present in Surat District Prison, Surat be set at liberty forthwith, if he is not required in any other case. Rule is made absolute. No order as to costs.

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